

Message Text

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51

ACTION ARA-10

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R 041737Z JUN 75

FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC 250

INFO AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY SAN JOSE

AMEMBASSY SAN SALVADOR

LIMITED OFFICIAL USE TEGUCIGALPA 2356

E.O. 11652: N/A

TAGS: PINT, HO

SUBJECT: LEGAL PROCEEDINGS AGAINST EX-MINECON BENNATON

REF: TEGUCIGALPA 2288

1. EX-MINECON BENNATON RAMOS WAS RELEASED ON BOND FROM CENTRAL PENITENTIARY LATE AFTERNOON OF JUNE 3. THE THREE CHARGES THAT HE HAD BEEN CHARGED WITH BY ATTORNEY GENERAL IN THE FIRST CRIMINAL COURT OF TEGUCIGALPA WERE FISCAL FRAUD, UTILIZING HIS OFFICE FOR PERSONAL GAIN AND ACTS AGAINST THE "DIGNITY" OF THE COUNTRY. THE MOST SERIOUS CHARGE IS FISCAL FRAUD AND NO ONE CAN BE RELEASED ON BOND IF THE JUDGE BELIEVES THERE IS SUFFICIENT EVIDENCE TO BRING SUCH A PERSON TO TRIAL. UTILIZING PUBLIC OFFICE FOR PERSONAL GAIN AND ACTS AGAINST THE NATION'S DIGNITY ARE MINOR OFFENSES AND AN INDIVIDUAL CAN BE RELEASED ON BOND EVEN IF THE JUDGE BELIEVES THERE IS SUFFICIENT EVIDENCE FOR COURT ACTION.

2. THE FIRST CRIMINAL COURT JUDGE DECIDED IN BENNATON'S
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CASE THAT THERE WAS NOT SUFFICIENT EVIDENCE TO BRING

HIM TO TRIAL FOR FISCAL FRAUD BUT THAT THERE IS ENOUGH EVIDENCE TO TRY HIM ON THE OTHER TWO COUNTS. SINCE THOSE COUNTS ARE MINOR, HE WAS RELEASED ON A BOND AMOUNTING TO 1,680 LEMPIRAS (\$840). THE NEXT ACTION OF THE ATTORNEY GENERAL WILL BE TO APPEAL THE FINDINGS OF THE FIRST CRIMINAL COURT TO THE SECOND AND FIRST APPELLATE COURTS. IF THEY CONCUR IN THE FINDINGS OF THE FIRST CRIMINAL COURT, THE CASE GOES TO THE SUPREME COURT FOR DECISION.

3. IF THE SUPREME COURT CONCURS, THE CHARGE OF FISCAL FRAUD WILL BE DISMISSED AND BENNATON WILL STAND TRIAL IN THE FIRST CRIMINAL COURT ON THE MINOR COUNTS OF INDIGNITY TO THE NATION AND UTILIZING HIS OFFICE FOR PERSONAL GAIN. EVEN IF HE IS FOUND GUILTY, THE MOST HE CAN LOSE WILL BE THE 1,680 LEMPIRAS BECAUSE HE CAN BUY HIS WAY OUT OF JAIL ON THE BASIS OF PAYING ONE LEMPIRA FOR EACH DAY HE WOULD OTHERWISE SERVE. THE MAXIMUM SENTENCE WOULD BE FOUR AND ONE-HALF YEARS WHICH EQUALS 1,680 LEMPIRAS.

4. COMMENT: THERE IS NO DOUBT THAT BENNATON AND HIS LAWYERS WILL DO ALL IN THEIR POWER TO FIGHT THE MINOR CHARGES, ASSUMING THE FISCAL FRAUD CHARGE IS DISMISSED. CLEARLY BENNATON IS NOT CONCERNED ABOUT \$840 BUT RATHER ABOUT THE POPULAR JUDGMENT WHICH WILL BE MADE IF HE IS JUDGED TO BE GUILTY. GIVEN THE NATURE OF THE HONDURAN LEGAL SYSTEM, IT IS QUITE POSSIBLE THAT BENNATON WILL NOT BE CONVICTED OF ANYTHING BECAUSE OF THE UNAVAILABILITY OF CONCRETE BRIBERY EVIDENCE.
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